

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

2009 FEB 25 P 2:40

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

WALTER A. MARTINEZ,
Plaintiff,

vs.

MICHAELA D. ANDRUZZI, et al.,
Defendants.

ORDER ADOPTING REPORT AND
RECOMMENDATION

Case No. 2:06 CV 1023 TC

The court referred this case to Magistrate Judge Brooke C. Wells pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B). On February 3, 2009, Judge Wells, in a very thorough Report and Recommendation, recommended that Defendants' motion to dismiss be granted and Plaintiff's complaint be dismissed because Plaintiff (1) failed to file any opposition to Defendants' motion to dismiss; and (2) failed to respond to the court's January 22, 2009 Order to Show Cause. Plaintiff did respond to the court's Order to Show Cause but after the time for responding had expired.¹ In that response, Plaintiff asked the court to grant the Defendants' motion to dismiss as he could no longer pursue the case for financial and medical reasons.

The parties were given ten days to file objections to the Report and Recommendation and

¹Docket No. 21.

were cautioned that failure to file an objection could constitute waiver thereof upon subsequent review. No objections were filed.

The court, after de novo review of the Report and Recommendation, agrees that Judge Wells' conclusions are correct in all respects, and hereby adopts the Report and Recommendation as the order of the court.² Defendants' motion to dismiss is GRANTED. Plaintiff's complaint is DISMISSED with prejudice.

IT IS SO ORDERED THIS 24th day of February, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
Chief Judge

²At Plaintiff's request, his complaint will be dismissed with prejudice. Dkt. 21, Response to Order to Show Cause p. 2.